



**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 511**

H511-ABQ-73 [v.3]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 2

Amends Title [NO]
Third Edition

Date _____, 2019

Senator _____

1 moves to amend the bill on page 1, lines 2 – 6, by rewriting the lines to read:
2 "AN ACT TO INCREASE JUDICIAL DISCRETION IN SENTENCING FOR DRUG
3 TRAFFICKING OFFENSES.";

4
5 and, on page 1, line 24 through page 2, line 13, by rewriting those lines to read:

- 6
7 "(5a) A judge sentencing a person for a conviction pursuant to G.S. 90-95(h) or
8 G.S. 90-95(i) for conspiracy to commit a violation of G.S. 90-95(h) shall
9 impose the applicable minimum prison term provided by this subsection. The
10 sentencing judge may reduce the fine and sentence the person consistent with
11 the applicable offense classification and prior record level provided in
12 G.S. 15A-1340.17, if after a hearing and an opportunity for the district
13 attorney to present evidence, including evidence from the investigating law
14 enforcement officer, other law enforcement officers, or witnesses with
15 knowledge of the defendant's conduct at any time prior to sentencing, the
16 judge enters into the record specific findings that all of the following are met:
17 a. The defendant has accepted responsibility for the defendant's criminal
18 conduct.
19 b. The defendant has not previously been convicted of a felony under
20 G.S. 90-95.
21 c. The defendant did not use violence or a credible threat of violence, or
22 possess a firearm or other dangerous weapon, in the commission of the
23 offense for which the defendant is being sentenced.
24 d. The defendant did not use violence or a credible threat of violence, or
25 possess a firearm or other dangerous weapon, in the commission of
26 any other violation of law.
27 e. The defendant has admitted that he or she has a substance abuse
28 disorder involving a controlled substance and has successfully
29 completed a treatment program approved by the Court to address the
30 substance abuse disorder.
31 f. Imposition of the mandatory minimum prison term would result in
32 substantial injustice.



* H 5 1 1 - A B Q - 7 3 - V - 3 *

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Page 2 of 2

- 1 g. Imposition of the mandatory minimum prison sentence is not
2 necessary for the protection of the public.
3 h. The defendant is being sentenced solely for trafficking, or conspiracy
4 to commit trafficking, as a result of possession of a controlled
5 substance.
6 i. There is no substantial evidence that the defendant has ever engaged
7 in the sale, manufacture, delivery or transport of a controlled substance
8 or intent to sell, manufacture, deliver or transport a controlled
9 substance.
10 j. The defendant, to the best of his or her knowledge, has provided all
11 reasonable assistance in the identification, arrest, or conviction of any
12 accomplices, accessories, co-conspirators, or principals.";
13

14 and, on page 2, line 21 through page 3, line 2, by deleting those lines;

15
16 and, on page 3, line 22 through page 4, line 17, by deleting those lines;

17
18 and, on page 4, line 18, by deleting "**SECTION 7.**" and substituting "**SECTION 4**".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____